

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANGELIC ALVILLAR,

Plaintiff,

vs.

NO.

UNITED STATES OF AMERICA,
and JOHN AND JANE DOES I – X and
ENTITIES, CORPORATIONS and/or
PARTNERSHIPS DOES XI – XX,

Defendants.

COMPLAINT FOR PERSONAL INJURIES AND DAMAGES

PLAINTIFF, Angelic Alvillar, by and through her attorney of record, RIOS LAW FIRM (Linda J. Rios, Esq.), states and alleges:

1. At all material times Plaintiff Angelic Alvillar (hereinafter “Plaintiff”) was a resident of Albuquerque, County of Bernalillo, State of New Mexico in the United States District of New Mexico, and of the district and division in which this action is brought.

2. Upon information and belief, the United States Postal Service is a political entity, a governmental entity, federal entity or similar public entity organized and existing under the laws of the Defendant United States (hereinafter “Defendant”) and the State of New Mexico. All causes of action arose directly from its activities conducted within Bernalillo County, New Mexico and in this district and division.

3. This claim is brought against the Defendant pursuant to 28 U.S.C. Sec. 2671 et seq. known as the Federal Tort Claims Act. This Court has jurisdiction of this action pursuant to 28 U.S.C. Sec. 1346.

4. Notice was timely given to the United States of America, United States Post Office on Standard Form 95 pursuant to the Federal Tort Claims Act.

5. A denial letter was sent by the United States Post Office on December 8, 2015.

6. All events giving rise to this Complaint occurred in Albuquerque, New Mexico and within the United States District of New Mexico.

COUNT ONE
GENERAL ALLEGATIONS AND NEGLIGENCE

7. At all relevant times, Defendant owned, possessed, maintained, leased, controlled and/or operated the premises of the U.S. Post Office located at 6255 San Antonio Dr. NE, Albuquerque (“premises”), for the purpose of providing postal services to customers such as Plaintiff.

8. On June 14, 2013, Plaintiff, a patron at Defendant’s premises, was walking to her vehicle when she tripped over an unmarked exposed pothole in the parking lot. As a result of the fall, Plaintiff did sustain serious injury to her body, including but not limited to her knees, shoulders, hip, back and ankles.

9. At all relevant times, Plaintiff exercised reasonable care for her own safety.

10. At the aforementioned date and place, Defendant and its employees, contractors and agents knew or should have known about the pothole, which presented an unsafe, unmaintained, unsupervised, dangerous and hazardous condition to Plaintiff and others on the premises.

11. At the aforesaid date and place, Defendant and its employees, contractors and agents had a duty to use reasonable care to maintain the premises in a safe condition so as to avoid risk of injury to its visitors and the public. Defendant and its employees and agents knew or should have known that an uncovered, unmarked, exposed pothole created an unreasonable

risk of injury to its visitors and to Plaintiff.

12. At all relevant times, there were no warning devices or barriers to warn Plaintiff of the unsafe condition on the premises or to prevent access to the unsafe areas.

13. The condition of the parking lot and failure to warn of such condition posed a foreseeable risk of injury to visitors and to Plaintiff.

14. Defendant and its employees and agents breached its duty of care by failing to maintain the parking lot and surrounding area in a safe condition or to warn Plaintiff and other visitors of the dangerous condition of the parking lot.

15. At all relevant times, Defendant and its employees and agents, jointly and severally, did fail to use ordinary care in the operation and maintenance of the U.S. Post Office premises located at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico, and in their supervision and care of Plaintiff by placing her in a situation which endangered her life and health.

16. The Defendants, Does I through X, and XI-XX, inclusive, are sued under fictitious names, their true names and capacities being unknown at this time to Plaintiff, who is informed and believes and thereon alleges that said Defendants are responsible in some manner for the events and happenings referred to herein, and will ask leave of the court to amend this Complaint to show their true names and capacities when the same have been ascertained. At all relevant times, each Defendant, including any Defendant(s) fictitiously named, was acting as the agent, servant, insurer, employee, partner, or joint venture of each other Defendant(s) in doing the things alleged herein, and is responsible, in some manner, for the damages claimed herein by Plaintiff.

17. As a further direct and proximate result of Defendant's and its employees/agents',

wrongful conduct, Plaintiff did suffer injuries and damages including, but not limited to, physical injuries, emotional injuries, past incurred and future medical expenses, non- medical expenses, loss of life's enjoyment, loss of household services, past and future lost wages, lost earnings, lost earning capacity, and emotional and physical pain and suffering, incidental expenses and other damages allowed by law; all to Plaintiff's great loss in an amount to be proven at trial.

COUNT TWO
NEGLIGENT OPERATION AND MAINTENANCE

18. Plaintiff incorporates by reference all prior paragraphs as if fully set forth herein.

19. At the aforesaid date and place, Defendant Defendant's and its employees/agents, jointly and severally, had a duty to maintain the premises at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico, in a reasonably safe condition so as to avoid the unreasonable risk of injury to patrons and guests upon the premises.

20. Defendant and its employees/agents, knew or should have known that there was a pothole in the parking lot of the U.S. Post Office located at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico, creating an unsafe, unmaintained, unsupervised, hazardous, and dangerous condition and that this condition would create an unreasonably dangerous risk to patrons and guests such as Plaintiff.

21. The area in which Plaintiff fell was under the supervision, maintenance and control of Defendant and its employees/agents.

22. No warning devices were present to warn Plaintiff of the hazardous condition.

23. No barriers were erected to prevent Plaintiff from accessing or walking on the dangerous area where the pothole existed.

24. Defendant and its employees/agents owed a duty to use ordinary care to keep their premises at U.S. Post Office located at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico,

safe for use by the Plaintiff and other patrons and guests and/or to warn them of a dangerous condition existing on its property.

25. The pothole foreseeably posed an unreasonable risk of injury to Plaintiff, patrons, and members of the public who were present at the premises.

26. Defendant and/or its employees/agents breached their duty of care to Plaintiff and acted negligently and recklessly by:

- a. failing to exercise due care to properly maintain a paved, even, clear and safe parking lot;
- b. failing to repair and/or re-fill the pothole in the parking lot;
- c. failing to fix an uneven parking lot;
- d. failing to place warning devices notifying of the dangerous area;
- e. failing to prevent the formation or occurrence of a dangerous condition or situation;
- f. failing to prevent Plaintiff and the public from accessing the area where the pothole had created the hazardous condition.

27. Defendant and its employees/agents have a non-delegable duty to maintain their premises at U.S. Post Office located at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico, in a safe condition.

28. Defendant and its employees/agents failed to exercise due care and failed to use reasonable care and judgment in the maintenance, upkeep and condition of the premises at U.S. Post Office located at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico.

29. Defendant and its employees/agents, jointly and severally, are liable for their failure to use ordinary care in the maintenance of its premises at 6255 San Antonio Dr. NE, in

Albuquerque, New Mexico.

30. Defendant and its employees/agents, failure to maintain the premises at 6255 San Antonio Dr. NE, in Albuquerque, New Mexico, failure to make sure the area was safe for pedestrian traffic, and/or failure to barricade or close off the area, created a dangerous condition and Plaintiff was injured due to that condition.

31. At all times pertinent hereto, said employees and agents were acting within the course and scope of their relationship with Defendant when they and Defendant breached their duties of reasonable care and negligently maintained the parking lot causing Plaintiff's injuries.

32. As a further direct and proximate result of Defendant's and its employees/agents', wrongful conduct, Plaintiff did suffer injuries and damages including, but not limited to, physical injuries, emotional injuries, past incurred and future medical expenses, non- medical expenses, loss of life's enjoyment, loss of household services, past and future lost wages, lost earnings, lost earning capacity, and emotional and physical pain and suffering, incidental expenses and other damages allowed by law; all to Plaintiff's great loss in an amount to be proven at trial.

WHEREFORE, Plaintiff requests relief of this Court against Defendant herein as follows:

1. For compensatory damages in an amount to be proven at trial;
2. For all costs incurred in the prosecution of this action to be reimbursed Plaintiff by Defendant;
3. For interest on all sums awarded hereunder at the statutory rate from date of Judgment until paid in full;
4. For punitive damages; and
5. For such other and additional relief as the Court may deem proper.

Respectfully submitted,

RIOS LAW FIRM

/s/ Linda J. Rios, Esq. _____

BY: Linda J. Rios

ATTORNEYS FOR PLAINTIFF

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